

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 3, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-2432-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

ROBERT WILSON, A/K/A WARREN G. GOBERT,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Outagamie County: HAROLD V. FROEHLICH, Judge. *Affirmed.*

Before Cane, P.J., Myse and Hoover, JJ.

PER CURIAM. Robert Wilson appeals a judgment convicting him of fraudulent use of a financial transaction card and sentencing him to four years in prison concurrent with a California sentence. He argues that the trial court should have given him eighty-nine days' credit for pretrial incarceration and that the court that conducted his preliminary examination improperly exercised its

discretion when it granted the State an adjournment after a key witness failed to appear. We reject these arguments and affirm the judgment.

Wilson was not entitled to credit for pretrial incarceration. After Wilson was arrested on this charge, he posted \$10,000 bail and absconded. By the time he was returned to Wisconsin, pursuant to the Interstate Agreement on Detainers, he had been convicted in California and was serving a prison term there. The time Wilson spent in the Outagamie county jail awaiting trial is not credited against his sentence because he was serving his California sentence during that time. Even if Wilson had been released on bail from the Wisconsin charge, he would not have been released from custody. Sentence credit is not granted for presentence time if the defendant is serving a previously imposed sentence for an unrelated crime, even if the subsequent sentence runs concurrent with the earlier sentence. See *State v. Beets*, 124 Wis.2d 372, 379, 369 N.W.2d 382, 385 (1985); *State v. Amos*, 153 Wis.2d 257, 280-81, 450 N.W.2d 503, 512 (Ct. App. 1989); *State v. Gavigan*, 122 Wis.2d 389, 394, 362 N.W.2d 162, 165 (Ct. App. 1984).

Wilson's no contest plea constitutes a waiver of any defect in the preliminary examination. A defendant who claims error at his preliminary hearing may only obtain relief before trial. See *State v. Webb*, 160 Wis.2d 622, 628, 467 N.W.2d 108, 110 (1991). Generally, a valid no contest plea waives all nonjurisdictional defects and defenses. See *State v. Aniton*, 183 Wis.2d 125, 129, 515 N.W.2d 302, 303 (Ct. App. 1994). Even if the alleged error here were viewed as a personal jurisdiction defect, lack of personal jurisdiction is waived by the no

contest plea.¹ See *Godard v. State*, 55 Wis.2d 189, 190, 197 N.W.2d 811, 812 (1972).

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

¹ The State also persuasively argues that the trial court did not error and that Wilson has not established any unfair prejudice from the trial court's ruling. Because we conclude that the issue was waived, we will not further review the issue.

